

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: Baycol Products Liability Litigation

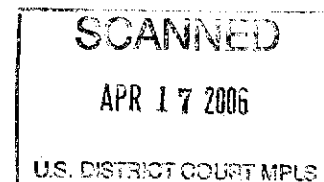
MDL No. 1431

This Document Relates to:

One Hundred Forty-Two (142)
Branch Law Firm Cases listed as
"Other Unacceptable PFS [Plaintiff
Fact Sheet] submissions pursuant
to PTO 81 Order w/ 12/8/04 deadline."

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jonathan Lebedoff dated March 28, 2005, recommending denial of Plaintiffs' Motion in Anticipation of Possible Dismissal Under PTO 81 and Reconsideration. Also before the Court is a motion for relief under Federal Rules of Civil Procedure 60(b) filed on behalf of the affected Plaintiffs by the law firm of Zimmerman Reed, PLLP. The Branch Law Firm moves to strike this motion for Rule 60(b) Relief.

Pursuant to statute, the Court has conducted a de novo review of the record. 28 U.S.C. § 636(b)(1); Local Rule 72.1(c). Based on that review the Court ADOPTS in part the Report and Recommendation, but will grant Plaintiffs limited relief as discussed below.



Throughout its management of this MDL proceeding, the Court recognizes that it has dismissed a great number of claims based on a plaintiff's failure to comply with discovery deadlines. The matter currently before the Court concerns such a failure to timely comply with discovery deadlines. However, the issues involved here are quite unusual, and require the Court to look beyond the simple issue of missed deadlines.

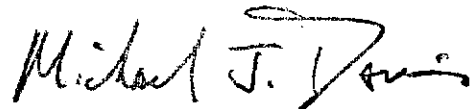
Here, local counsel has taken the unusual step of requesting that the Court allow them access to certain plaintiffs they believe have meritorious claims, and that the sanction of dismissal does not serve the ends of justice because the missed deadlines appear to have resulted from miscommunications between staff in the Branch Law Firm. The Branch Law Firm objects to the request of local counsel to the extent that local counsel is given access to certain plaintiffs, but appears to be in agreement that certain of the plaintiffs that are the subject of this motion have meritorious claims.

Because dismissal is a severe sanction under Fed.R.Civ.P. 37, and because it appears that failure to comply with the discovery deadlines rests solely with the Branch Law Firm, and because local counsel and the PSC have taken the unusual step of requesting the opportunity to directly assist in ensuring the discovery deadlines are met, the Court will grant the motion of Zimmerman Reed and the PSC as to those plaintiffs only identified by the Branch Law Firm in Exhibit 2 to their objections to the Report and Recommendation.

IT IS HEREBY ORDERED that:

1. Plaintiffs' Motion in Anticipation of Possible Dismissal Under PTO 81 and Reconsideration, in relation to "One Hundred Forty-Two (142) Branch Law Firm Cases listed as 'Other Unacceptable PFS (Plaintiff Fact Sheet) submissions pursuant to PTO 81 and Order w/ 12/08/04 deadline" is granted only as to those plaintiffs listed in the attached Exhibit.
2. The Motion of Zimmerman Reed and the PSC for Relief under Fed.R.Civ.P. 60(b) is granted as to those plaintiffs listed in the attached Exhibit.
3. Plaintiffs' Motion to Strike Zimmerman Reed and the PSC's Motion is DENIED.
4. Plaintiffs' Motion to Strike Defendant's Opposition is DENIED.

Date: **APR 17 2006**

A handwritten signature in black ink, appearing to read "Michael J. Davis", is written over a horizontal line.

Michael J. Davis
United States District Court

Other Unacceptable PFS submissions pursuant to PTO 81 Order w/ 12/08/04 deadline

| No. | Plaintiff Name | MDL No. | Resident State | Docs Rec'd | Auths Rec'd/Sign | PFS Signed | PFS Rec'd Date | Counsel |
|-----|-----------------------|---------|----------------|------------|------------------|------------|----------------|---------|
| 1. | Aceves, Elpidio | 04-3585 | CA | no | YES | YES | 11/24/2004 | Branch |
| 2. | Apodaca, Joseph | 04-3595 | NM | no | YES | YES | 12/08/2004 | Branch |
| 3. | Arandas, Teodoro | 04-3585 | CA | no | YES | YES | 11/24/2004 | Branch |
| 4. | Ashton, Burton | 04-3603 | NC | no | no | YES | 12/02/2004 | Branch |
| 5. | Austin, Joseph | 04-3587 | TX | n/a | no | YES | 11/24/2004 | Branch |
| 6. | Bacharach, David, Jr. | 04-3588 | MA | no | YES | no | 11/24/2004 | Branch |
| 7. | Banda, Norberta | 04-3586 | CA | no | YES | YES | 11/24/2004 | Branch |
| 8. | Bare, Phyllis | 04-3618 | DE | no | YES | YES | 12/02/2004 | Branch |
| 9. | Barnett, Sammie Dee | 04-3587 | TX | no | no | YES | 11/24/2004 | Branch |
| 10. | Beacom, Jack | 04-3623 | MN | no | YES | YES | 12/02/2004 | Branch |
| 11. | Beck, Barbara | 04-3593 | NC | no | no | YES | 12/06/2004 | Branch |
| 12. | Belma, Daryoush | 04-3587 | TX | no | YES | YES | 11/24/2004 | Branch |
| 13. | Benfield, Catherine | 04-3614 | MS | no | YES | YES | 12/06/2004 | Branch |
| 14. | Bethell, Rheaba | 04-3615 | AR | no | YES | YES | 12/06/2004 | Branch |
| 15. | Blackmon, Wanda | 04-3593 | NC | no | YES | YES | 12/06/2004 | Branch |
| 16. | Bleeker, Lola | 04-3586 | CA | no | YES | YES | 11/24/2004 | Branch |
| 17. | Brannon, Milton | 04-3590 | GA | no | no | YES | 12/06/2004 | Branch |
| 18. | Brazel, Mary | 04-3612 | WA | no | YES | YES | 12/08/2004 | Branch |
| 19. | Bridges, Virginia | 04-3614 | MS | no | YES | YES | 12/02/2004 | Branch |
| 20. | Briggs, Robert | 04-3591 | SC | no | no | no | 11/24/2004 | Branch |
| 21. | Brosch, Melba | 04-3592 | TX | no | YES | no | 11/24/2004 | Branch |
| 22. | Bryan, Kenneth | 04-3587 | TX | no | no | no | 11/24/2004 | Branch |
| 23. | Brul, Ronald | 04-3585 | CA | no | no | YES | 11/24/2004 | Branch |
| 24. | Campos, Fernando | 04-3585 | CA | no | YES | YES | 11/24/2004 | Branch |
| 25. | Castleberry, James | 04-3594 | AL | no | no | no | 12/08/2004 | Branch |
| 26. | Clark, Glennon | 04-3595 | CO | no | YES | YES | 12/06/2004 | Branch |
| 27. | Cocchia, Debra | 04-3596 | CT | no | YES | YES | 12/06/2004 | Branch |

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|-----|--------------------|---------|----|-----|-----|-----|------------|--------|
| 28. | Cohen, Paul | 04-3607 | MD | no | YES | YES | 12/06/2004 | Branch |
| 29. | Collins, Stanley | 04-3594 | AL | no | YES | YES | 12/08/2004 | Branch |
| 30. | Cook, Margie | 04-3592 | TX | no | no | no | 11/24/2004 | Branch |
| 31. | Cooper, Corinrh | 04-3602 | OR | no | YES | YES | 12/06/2004 | Branch |
| 32. | Criscuolo, Regina | 04-3598 | NY | no | YES | YES | 12/06/2004 | Branch |
| 33. | Cummings, Charles | 04-3603 | NC | no | YES | YES | 12/06/2004 | Branch |
| 34. | Dadyala, Herbert | 04-3607 | MD | no | YES | YES | 12/08/2004 | Branch |
| 35. | Daise, Elise | 04-3609 | FL | no | YES | YES | 12/08/2004 | Branch |
| 36. | Davis, Michelle | 04-3607 | MA | no | YES | YES | 12/06/2004 | Branch |
| 37. | Denslow, John | 04-3609 | FL | n/a | no | YES | 12/06/2004 | Branch |
| 38. | Dietrich, Roberta | 04-3623 | ? | no | YES | YES | 12/08/2004 | Branch |
| 39. | Dixon, Thomas | 04-3614 | MS | no | YES | YES | 12/06/2004 | Branch |
| 40. | Edwards, Rubye | 04-3590 | GA | no | YES | YES | 12/06/2004 | Branch |
| 41. | Faessel, John | 04-3609 | FL | n/a | no | YES | 12/06/2004 | Branch |
| 42. | Failor, Paul | 04-3621 | PA | no | YES | YES | 12/06/2004 | Branch |
| 43. | Field, Laura | 04-3609 | FL | no | YES | YES | 12/06/2004 | Branch |
| 44. | Fisher, Donna | 04-3618 | DE | no | YES | YES | 12/06/2004 | Branch |
| 45. | Flanagan, Juanita | 04-3600 | OK | no | YES | YES | 12/06/2004 | Branch |
| 46. | Fountain, Theresis | 04-3609 | FL | no | YES | YES | 12/08/2004 | Branch |
| 47. | Friedrich, John | 04-3589 | NJ | no | YES | YES | 12/02/2004 | Branch |
| 48. | Garrigue, Michael | 04-3585 | CA | no | YES | YES | 12/02/2004 | Branch |
| 49. | Gentry, Norma | 04-3607 | MA | no | YES | YES | 12/06/2004 | Branch |
| 50. | Goad, Barbara | 04-3603 | NC | no | YES | YES | 12/08/2004 | Branch |
| 51. | Godfrey, Lloyd | 04-3607 | MD | no | no | YES | 12/02/2004 | Branch |
| 52. | Gottwalt, Leander | 04-3601 | IL | no | no | YES | 12/02/2004 | Branch |
| 53. | Grieger, David | 04-3594 | AL | no | YES | YES | 12/06/2004 | Branch |
| 54. | Haines, Monique | 04-3609 | FL | no | no | YES | 12/06/2004 | Branch |
| 55. | Hakes, Robert | 04-3609 | FL | no | YES | YES | 12/06/2004 | Branch |
| 56. | Harrington, Larry | 04-3602 | OR | no | YES | YES | 12/06/2004 | Branch |
| 57. | Hathcox, Betty | 04-3592 | TX | no | no | YES | 12/06/2004 | Branch |
| 58. | Havens, Carol | 04-3626 | KY | no | no | YES | 12/06/2004 | Branch |
| 59. | Hayman, Winifred | 04-3598 | NY | no | no | YES | 12/06/2004 | Branch |

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|-----|--|---------|------|-----|-----|-----|------------|--------|
| 60. | Hill, Patricia (Maria Hill on concordance) | 04-3604 | TN | no | YES | YES | 12/06/2004 | Branch |
| 61. | Hinson, Beatrice | 04-3603 | NC | no | YES | YES | 12/06/2004 | Branch |
| 62. | Hocamp, William | 04-3602 | OR | no | YES | YES | 12/06/2004 | Branch |
| 63. | Holman, Harrie | 04-3603 | NC | no | no | YES | 12/08/2004 | Branch |
| 64. | Huffman, Rochelle | 04-3592 | NC | no | YES | YES | 12/06/2004 | Branch |
| 65. | Isaacs, Eula | 04-3605 | WV | no | YES | YES | 12/08/2004 | Branch |
| 66. | Ivy, Mary | 04-3592 | TX | no | YES | YES | 12/06/2004 | Branch |
| 67. | Jackson, Danny | 04-3587 | TX | no | YES | no | 11/24/2004 | Branch |
| 68. | Jones, Theresa | 04-3620 | MI | no | YES | YES | 12/02/2004 | Branch |
| 69. | Jones-Bell, Imogene | 04-3592 | TX | no | YES | no | 11/24/2004 | Branch |
| 70. | Karren, Olivia | 04-3606 | ID | no | YES | YES | 12/06/2004 | Branch |
| 71. | Kelch, Margaret | 04-3607 | MD | no | YES | YES | 12/08/2004 | Branch |
| 72. | Krznaric, Jane | 04-3586 | CA | no | YES | YES | 11/24/2004 | Branch |
| 73. | Kupner, Larry | 04-3593 | NC | no | YES | YES | 11/24/2004 | Branch |
| 74. | Kupner, Larry | 04-3593 | NC | no | no | no | 12/08/2004 | Branch |
| 75. | Ledford, Randy | 04-3593 | NC | no | YES | YES | 12/06/2004 | Branch |
| 76. | Liberatore, June | 04-3598 | NY | no | no | no | 12/06/2004 | Branch |
| 77. | Libranda, Virgilio | 04-3608 | Guam | no | no | YES | 12/06/2004 | Branch |
| 78. | Long, Glenda | 04-3609 | FL | no | YES | YES | 12/08/2004 | Branch |
| 79. | Madrigal, Joe | 04-3585 | CA | no | YES | YES | 12/06/2004 | Branch |
| 80. | Marnie, Vernette | 04-3602 | OR | no | no | YES | 12/02/2004 | Branch |
| 81. | Mayeaux, Joyce | 04-3611 | LA | no | YES | YES | 12/06/2004 | Branch |
| 82. | McDonald, Melba | 04-3612 | WA | no | YES | YES | 12/06/2004 | Branch |
| 83. | Messineo, Frank | 04-3598 | NY | n/a | no | YES | 12/06/2004 | Branch |
| 84. | Metz, Brenda | 04-3616 | OH | no | YES | YES | 12/06/2004 | Branch |
| 85. | Middleton, Helen | 04-3592 | TX | no | YES | YES | 11/24/2004 | Branch |
| 86. | Milano, Michael | 04-3623 | MD | no | no | YES | 12/02/2004 | Branch |
| 87. | Moncada, Rueben | 04-3623 | ? | no | YES | YES | 12/02/2004 | Branch |
| 88. | Moore, Bernice | 04-3586 | CA | no | no | YES | 12/06/2004 | Branch |
| 89. | Moore, Patricia | 04-3592 | TX | no | YES | YES | 11/24/2004 | Branch |
| 90. | Morris, Mary | 04-3589 | NJ | no | YES | YES | 11/24/2004 | Branch |

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|------|--------------------|---------|----|----|-----|-----|------------|--------|
| 91. | Mullins, Anna | 04-3626 | KY | no | YES | YES | 12/02/2004 | Branch |
| 92. | Murphy, Byron | 04-3609 | FL | no | YES | YES | 12/02/2004 | Branch |
| 93. | Nelson, James | 04-3624 | MD | no | no | YES | 12/02/2004 | Branch |
| 94. | Nivens, Josie | 04-3607 | MD | no | YES | YES | 12/02/2004 | Branch |
| 95. | Norton, Wayne | 04-3585 | CA | no | YES | YES | 12/06/2004 | Branch |
| 96. | Ochoa, Ruben | 04-3587 | TX | no | YES | YES | 12/06/2004 | Branch |
| 97. | Olliver, Billy | 04-3593 | NC | no | no | YES | 12/02/2004 | Branch |
| 98. | Pace, Linda | 04-3586 | CA | no | no | YES | 12/06/2004 | Branch |
| 99. | Perez, Reynaldo | 04-3587 | | no | YES | YES | 12/08/2004 | Branch |
| 100. | Perkins, Roy | 04-3585 | CA | no | YES | YES | 12/06/2004 | Branch |
| 101. | Phillips, Laura | 04-3626 | KY | no | YES | YES | 12/02/2004 | Branch |
| 102. | Pietila, Georgia | 04-3586 | CA | no | YES | YES | 12/06/2004 | Branch |
| 103. | Plunser, Barbara | 04-3609 | FL | no | YES | YES | 12/02/2004 | Branch |
| 104. | Pybate, James | 04-3614 | MS | no | no | no | 11/24/2004 | Branch |
| 105. | Rash, Emma | 04-3605 | WV | no | YES | YES | 12/02/2004 | Branch |
| 106. | Reed, Donald | 04-3615 | AR | no | YES | YES | 12/02/2004 | Branch |
| 107. | Roberts, Melvina | 04-3596 | | no | YES | YES | 12/08/2004 | Branch |
| 108. | Roll, Cecelia | 04-3601 | IL | no | YES | YES | 12/02/2004 | Branch |
| 109. | Romano, Julia | 04-3589 | NJ | no | no | YES | 12/06/2004 | Branch |
| 110. | Rose, Yvonne | 04-3607 | MD | no | YES | YES | 12/02/2004 | Branch |
| 111. | Ruiz, Danelle | 04-3586 | CA | no | YES | YES | 12/08/2004 | Branch |
| 112. | Saul, Barbara | 04-3616 | OH | no | YES | YES | 12/02/2004 | Branch |
| 113. | Schatter, Dorothy | 04-3586 | CA | no | YES | YES | 11/24/2004 | Branch |
| 114. | Schreiber, Nichole | 04-3586 | | no | no | no | 12/08/2004 | Branch |
| 115. | Schubert, Virginia | 04-3593 | NC | no | YES | YES | 12/02/2004 | Branch |
| 116. | Selling, Gary | 04-3585 | CA | no | YES | YES | 12/02/2004 | Branch |
| 117. | Smith, Mammie | 04-3592 | TX | no | YES | YES | 12/08/2004 | Branch |
| 118. | Spreigen, Maurice | 04-3598 | NY | no | YES | YES | 11/24/2004 | Branch |
| 119. | Spniell, Betty | 04-3603 | NC | no | YES | no | 11/24/2004 | Branch |
| 120. | Stanko, Virginia | 04-3586 | CA | no | YES | YES | 12/02/2004 | Branch |
| 121. | Stephens, Robert | 04-3618 | DE | no | no | YES | 12/06/2004 | Branch |
| 122. | Sutton, Gary | 04-3603 | NC | no | YES | YES | 12/08/2004 | Branch |

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|------|------------------------------|---------|----|----|-----|-----|------------|--------|
| 123. | Swann, Louis (Lewis) | 04-3591 | SC | no | YES | YES | 12/02/2004 | Branch |
| 124. | Thomas, Aaron | 04-3607 | MD | no | YES | YES | 12/08/2004 | Branch |
| 125. | Thomas, Kenneth | 04-3585 | CA | no | YES | YES | 12/02/2004 | Branch |
| 126. | Thompson, Harold | 04-3623 | MN | no | YES | YES | 11/24/2004 | Branch |
| 127. | Thompson, Sandy | 04-3595 | CO | no | no | YES | 11/24/2004 | Branch |
| 128. | Thompson, Shirley | 04-3609 | FL | no | YES | YES | 11/24/2004 | Branch |
| 129. | Thornton, Patricia | 04-3586 | CA | no | YES | YES | 12/02/2004 | Branch |
| 130. | Tucker, Joseph Fredrick, III | 04-3590 | GA | no | YES | YES | 11/24/2004 | Branch |
| 131. | Turner-Leannais, Marlene | 04-3620 | NM | no | YES | no | 11/24/2004 | Branch |
| 132. | Tyson, Mark | 04-3587 | TX | no | YES | YES | 12/02/2004 | Branch |
| 133. | Urich, Darius | 04-3607 | MD | no | YES | YES | 11/24/2004 | Branch |
| 134. | Veliquette, Max | 04-3620 | MI | no | no | YES | 11/24/2004 | Branch |
| 135. | Weinhold, Ardella | 04-3623 | MN | no | no | YES | 11/24/2004 | Branch |
| 136. | Wesley, John | 04-3587 | TX | no | YES | YES | 12/02/2004 | Branch |
| 137. | Whited, Gary, Sr. | 04-3624 | MO | no | YES | YES | 12/06/2004 | Branch |
| 138. | Wicher, Mary | 04-3590 | GA | no | no | YES | 11/24/2004 | Branch |
| 139. | Williams, Katherine | 04-3625 | ME | no | YES | YES | 11/24/2004 | Branch |
| 140. | Williams, Rosetta | 04-3626 | KY | no | YES | YES | 11/24/2004 | Branch |
| 141. | Worsley, Jewel | 04-3591 | SC | no | no | YES | 12/02/2004 | Branch |
| 142. | Zuniga, Edna | 04-3592 | TX | no | YES | YES | 12/02/2004 | Branch |
| 143. | | | | | | | | |
| 144. | | | | | | | | |
| 145. | | | | | | | | |
| 146. | | | | | | | | |
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| 151. | | | | | | | | |
| 152. | | | | | | | | |
| 153. | | | | | | | | |
| 154. | | | | | | | | |

EXHIBIT "2"

| Plaintiff | Date PFS Sent | Authorizations Sent |
|---------------------|-------------------|--|
| Daryoush Behnia | November 23, 2004 | Hippa No Psych |
| Catherine Benfield | December 3, 2004 | Hippa No Psych, Workers Comp/SSN |
| Milton Brannon | December 3, 2004 | |
| Kenneth Bryan | November 23, 2004 | Hippa No Psych |
| Wayne Buck | December 8, 2004 | Hippa No Psych |
| James Castleberry | December 7, 2004 | |
| Herbert Dadyala | December 7, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| Thomas Dixon | December 3, 2004 | Hippa Psych, No Psych, Workers Comp/SSN |
| Ruby Edwards | December 1, 2004 | Hippa No Psych, Workers Comp/SSN |
| Laura Fields | December 3, 2004 | Hippa No Psych, Workers Comp/SSN |
| Juanita Flanagan | December 3, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| Debashish Ghosh | December 8, 2004 | Hippa No Psych, Workers Comp/SSN |
| Larry Harrington | December 3, 2004 | Hippa No Psych, Hippa Psych |
| Maria Patricia Hill | December 3, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| Beatrice Hinson | December 3, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| Glenda Long | December 7, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| James Nelson | December 1, 2004 | |
| Josie Nivens | December 1, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| James Pylate | November 23, 2004 | |
| Emma Rash | December 1, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| Julia Romano | December 3, 2004 | |
| Marlene Troy | December 8, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |
| Jewel Worsley | December 1, 2004 | Hippa No Psych, Employment, Workers Comp/SSN |